IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.300 OF 2006

Ketal Pranlal Vadalia ...Petitioner

v/s

Siddharth Ashwin Shah and anr. ...Respondents

Mr P.G. Lad for Petitioner.

Mr C.N. Chavan i/b Mr N.R. Patel for Respondent No.1.

CORAM : D.K. DESHMUKH J.

DATE : 25TH SEPTEMBER 2006.

P.C. :-

1. By this petition, the petitioner challenges the award made by the Sole Arbitrator on 25th April 2006 directing the petitioner to pay Rs.2,11,396/- to the respondents. The petitioner has challenged the award on several grounds. One of the ground on which the award is challenged is that the respondent - claimants did not file any statement of claim before the Arbitrator and that the observations made in the award that the respondents had filed their statement of claim is factually incorrect. The respondents have filed their reply, in the reply they do not dispute that they did not file any statement of claim. I asked the learned counsel appearing for respondents whether the respondents had filed their statement of claim. They rely on the observations in the award that the statement of claim was filed by the respondents. Therefore, I asked the learned counsel to show me the copy of statement of claim. He was unable to produce it. Perusal of provisions of section 23 of the Arbitration and Conciliation Act 1996 shows that the claimant is under a duty to file statement of claim before the learned Arbitrator. Perusal of section 25 of the said Act shows that if the claimant fails to communicate his statement of claim in accordance with sub-section (1) of

section 23, the Arbitral Tribunal has to terminate the proceedings. In the other words, in the absence of statement of claim filed by the claimant, there cannot be award made by the Arbitrator. Obviously therefore, this ground is enough to set aside the award. The award is accordingly set aside. In the result therefore, petition succeeds and is allowed, the award impugned in the petition is set aside. The respondents are directed to pay costs of this petition to the petitioner as incurred by the petitioner.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.